

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JOHN S. ELLISON,

Plaintiff

VS.

CALVIN RAMSEY, *et al.*,

Defendants

NO. 5:07-CV-391 (CAR)

**PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE**

ORDER OF DISMISSAL

Plaintiff JOHN S. ELLISON, an inmate confined at Men's State Prison in Hardwick, Georgia, in response to the court's order of August 5, 2008 (Tab #3), has advised the court by letter (Tab #4) that he desires to dismiss the above-captioned Section 1983 proceeding without prejudice. Plaintiff has never submitted his complaint on the court's Section 1983 forms and has never remitted the required filing fee or requested to proceed *in forma pauperis*. Thus, no service has ever been ordered upon any defendant.

Rule 41(a) of the *Federal Rules of Civil Procedure* permits the VOLUNTARY DISMISSAL of actions without order of the court "by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs." Therefore, the court will consider plaintiff's "letter" as his "**notice of dismissal**" under Rule 41.

Accordingly, for the purpose of clarifying the record herein, the Clerk of Court is directed to DISMISS the above-captioned proceeding WITHOUT PREJUDICE as requested by plaintiff.

SO ORDERED, this 12th day of AUGUST, 2008.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr." The signature is stylized with a large, flowing "C" and "H".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE